

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 311 - HB 1481

April 3, 2023

SUMMARY OF BILL AS AMENDED (006764): Establishes the *Tennessee Bullion Depository Act*, with the purpose of allowing qualified depositories to serve as the custodian, guardian, and administrator of certain bullion. Authorizes a qualified depository to operate exclusively or nonexclusively as a precious metals depository. Authorizes a qualified depository to be held and operated privately. Requires the Commissioner of Financial Institutions to promulgate rules, in accordance with the Uniform Procedures Act, to effectuate the *Tennessee Bullion Depository Act*. Requires depositories serving as a depository for precious metals to report to the Commissioner of Financial Institutions an annual report of its activities in the previous year, with the annual reports and all financial records of the depository subject to annual audit by the Comptroller of the Treasury. Requires the Commissioner of Financial Institutions to aggregate the report information to submit a consolidated annual report to the Governor, the Speaker of the Senate, the Speaker of the House of Representatives, and the Legislative Librarian.

Requires gold and silver coinage to be accepted as legal tender, at their spot price. Requires costs incurred in the course of verification of the weight and purity of gold and silver coinage during a transaction to be borne by the receiving entity. Clarifies that no person is required to use gold or silver coinage in the payment of any debt and that federal reserve notes still may be used in the payment of any debt. Requires the Commissioner of Revenue to accept gold and silver coinage for the purpose of the payment of taxes.

Requires any gold or silver coinage received lawfully by the state of Tennessee to be stored in a depository institution, with the value of the gold and silver attributed to the balance of the Rainy Day Fund. Stipulates that gold and silver must be the last to be liquidated, after all other funds in the Rainy Day Fund have been expended.

Requires the State Treasurer, in consultation with the Commissioner of Financial Institutions and in accordance with Article II of the Tennessee Constitution, to establish a state reserve banking system to support regulated state-chartered banks.

ESTIMATED FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures –

Exceeds \$1,000,000/FY23-24/General Fund

\$97,800/FY23-24 and Subsequent Years/DFI

**Exceeds \$500,000/FY24-25 and Subsequent Years/
General Fund**

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Increase Local Expenditures – Exceeds \$1,000,000/FY23-24*
Exceeds \$500,000/FY24-25 and Subsequent Years*

Other Fiscal Impact – The precise impact on state earnings revenue is unknown and is expected to vary considerably based on the status of financial market performance at any future time.

The establishment of a state reserve banking system would result in a significant and wide-ranging increase in state expenditures including the expenditures associated with an initial feasibility study. The precise amount and timing of any increase in state revenue and state expenditures is dependent on multiple unknown variables and cannot be reasonably determined.

Assumptions for the bill as amended:

Tennessee Bullion Depository Act

- The proposed legislation allows qualified depositories to engage in other transactions and investments as authorized by the promulgated rules by the Commissioner of Financial Institutions.
- Based on information provided by the Department of Financial Institutions, one additional Bank Financial Analyst will be needed to address the requirements of the proposed legislation, including aggregating and reporting on annual report data from depositories.
- The recurring increase in state expenditures as a result of hiring a Bank Financial Analyst will be \$97,822 (\$74,604 salary + \$19,718 benefits + \$3,500 on training and supplies costs) in FY23-24 and subsequent years.
- The Department of Treasury will need to ensure that qualified depositories are in compliance with and adhering to the regulations in the proposed legislation; any increased oversight by the Department of Treasury will be absorbable within existing resources without a significant increase in state expenditures.

Gold and Silver Coinage

- The proposed legislation will impose significant administrative burdens on the Department of Revenue (DOR), other state departments, and local governments.
- The spot price of gold and silver is constantly fluctuating, making it challenging to ensure the proper amount of gold and silver was provided by a taxpayer to cover their tax liability.
- It is assumed that DOR, other departments, and local governments will be responsible for covering the costs incurred in the course of verifying the weight and purity of any gold or silver coinage used to cover a tax liability.
- Valuing gold and silver coinage will require the hiring of new personnel, and will require new personnel receive extensive training to ensure the coinage is being handled and valued appropriately. Additionally, DOR, other departments, and local governments will require business subscription services, new systems, and equipment.

- Currently, the Texas Gold Bullion Depository has a 25-basis point charge on account balances between \$25,000,000 and \$50,000,000, with negotiable fees for higher account balances. Balances lower than \$25,000,000 have incrementally higher charges.
- For the purposes of this analysis, it is assumed that the annual expenses for all storage and maintenance services associated with maintaining physical gold and precious metal bullion or specie at a state depository will correspond to up to 25-basis point charge on account balances.
- Therefore, the estimated recurring increase in state expenditures will be up to \$125,000 (\$50,000,000 x 0.25%) per \$50,000,000 invested in FY23-24 and subsequent years.
- The proposed legislation will require DOR to hire a service to transport gold and silver coinage to a depository institution.
- The proposed legislation is reasonably expected to increase total state expenditures by an amount exceeding \$1,000,000 in FY23-24 and an amount exceeding \$500,000 in FY24-25 and subsequent years.
- The proposed legislation is reasonably expected to increase total local expenditures by an amount exceeding \$1,000,000 in FY23-24 and an amount exceeding \$500,000 in FY24-25 and subsequent years.
- Any impact on state revenue resulting from fluctuations in the price of gold and silver is unknown and expected to vary considerably based on the status of financial market performance at any future time.

State Reserve Banking System

- The establishment of a state reserve banking system would impose significant and wide-ranging costs, including conducting studies to determine the feasibility and total cost of implementation, hiring various administrative personnel, bankers, economists, lawyers, computer scientists, risk managers, and other staff.
- Establishing new payment systems, providing initial funding to the state reserve bank, and creating reserve bank rules and regulations will result in an increase in state expenditures.
- The increase in state expenditures as a result of the proposed legislation cannot be reasonably determined or estimated.
- Any potential increase in state revenue associated with the establishment of a reserve banking system is dependent on multiple unknown variables and cannot be reasonably determined.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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